

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. In July 2004 the Department sanctioned the petitioner for failure to attend a scheduled meeting with her caseworker on July 13, 2004. The meeting had been scheduled due to the petitioner's failure to follow through on certain requirements of her Family Development Plan (FDP). As a result, the

Department notified the petitioner that her RUFA grant would be reduced by \$75 effective August 1, 2004. The petitioner appealed this decision, and her benefits have continued unchanged pending the outcome of this appeal.

3. At the initial hearing in this matter, held on August 18, 2004, the parties informed the hearing officer that the petitioner and her caseworker would meet to attempt to resolve ongoing Reach Up compliance issues. If successful, this would allow the petitioner to "purge" her sanction as of the date of her compliance. The parties agreed to reset the matter for hearing if the petitioner still wished to contest the facts concerning the initial imposition of the sanction.

4. The petitioner understood at that time that her subsequent compliance with Reach Up could be weighed by the hearing officer in any assessment of the petitioner's credibility regarding her alleged noncompliance in July 2004.

5. At a hearing held on September 8, 2004, the petitioner failed to appear without notice to either the Board or her attorney, but her attorney appeared in her behalf. The Department reported that the petitioner had attended the initial meeting with her case worker following the hearing on August 18, but that she was still in the process of trying to resolve issues of scheduling additional meetings and providing

certain documentation. The parties agreed to a further continuance to determine whether the petitioner could purge her sanction and whether she wished to contest the basis of the initial imposition of the sanction.

6. The petitioner, again without notice, failed to appear at the next hearing date, October 6, 2004. Her attorney, who did appear, represented that he had not heard from his client. The Department represented (and had a witness prepared to testify) as to the events that led to the initial notice of sanction (see Paragraphs 1-2, *supra*). The Department also represented (and had the same witness prepared to testify) that since the last hearing (September 8) the petitioner had missed a scheduled meeting at DET and had refused to cooperate with Reach Up in trying to reschedule it. The Department also represented that it was prepared to show that since September 2004 the petitioner had not followed through with her FDP in accepting community service employment and attending English as Second Language classes.

7. The petitioner's attorney represented that the petitioner would dispute whether she missed the meeting on July 13, 2004, which had led to the initial imposition of the sanction, but that without his client being present he had no

evidence to offer to counter the Department's representations regarding any of the events in question.¹

ORDER

The Department's decision is affirmed.

REASONS

The Reach Up regulations provide: "If a participating adult . . . fails to comply with services component requirements, the department shall impose a fiscal sanction by reducing the financial assistance grant of the sanctioned adult's family." The regulations also specify that noncompliance can include the failure "to attend and participate fully in FDP activities". W.A.M. § 2370.1.

As noted above, the petitioner in this matter presented no evidence to counter the Department's credible representations that she failed without good cause to attend a scheduled meeting with Reach Up on July 13, 2004, and that

¹ The petitioner's hearing was scheduled at 9:30 a.m. on October 6, 2004, and was delayed by about an hour to give the petitioner a chance to appear. At its conclusion, the hearing officer advised the petitioner's attorney that he would proceed to issue this Recommendation, and that the attorney should contact the Board if the petitioner wanted to file a motion to reopen the matter. Later in the afternoon of October 6, 2004, long after her attorney had left, and in the midst of other scheduled hearings, the hearing officer observed the petitioner in the waiting room. He advised her to immediately contact her attorney. To date, the Board has heard nothing further from either the petitioner or her attorney.

since that time she has failed to follow through with another scheduled meeting and activities called for in her FDP.

Inasmuch as it must be concluded that the Department's decision in this matter was in accord with the its regulations, the Board is bound by law to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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